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38. (Amended) A composition according to claim 37, wherein the *Xenorhabdus nematophilus* species is ATCC 19061, NCIMB 40886 or NCIMB 40887.

40. (Twice Amended) A composition according to claim 37, which

- a. has oral pesticidal activity against *Pieris brassicae*, *Pieris rapae* and *Plutella xylostella*,
- b. is substantially heat stable to 55°C,
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c. acts synergistically with *B. thuringiensis* cells as an oral pesticide,
- d. is substantially resistant to proteolysis by trypsin and proteinase K, and
- e. has its pesticidal activity substantially destroyed by treatment with sodium dodecyl sulphate or acetone on heating to 80°C.

42. (Amended) A composition according to claim 37 which comprises a further pesticidal material not obtainable from *Xenorhabdus*.

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46. (Amended) A composition according to claim 37 which further comprises an agriculturally acceptable carrier.

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48. (Amended) A method for killing or controlling insect pests, which method comprises administering to a pest or the environment thereof a composition according to claim 37.

50. (Twice Amended) A method for killing or controlling insect pests, which method comprises administering orally to the insect a composition according to claim 37.

Please add new claims 59-70:

59. (New) A pesticidal composition comprising a proteinaceous material which is obtainable from a *Xenorhabdus nematophilus* species and which is encoded by the nucleotide sequence of Figure 2 (SEQ ID No 1), or a variant thereof wherein said variant encodes a proteinaceous material which is at least 90% homologous to the proteinaceous material encoded by SEQ ID NO:1, said composition having toxic activity when administered orally to an insect.
60. (New) An agent according to claim 59, wherein the *Xenorhabdus nematophilus* species is ATCC 19061, NCIMB 40886 or NCIMB 40887.
61. (New) An agent according to claim 59, which
- has oral pesticidal activity against *Pieris brassicae*, *Pieris rapae* and *Plutella xylostella*,
  - is substantially heat stable to 55°C,
  - acts synergistically with *B. thuringiensis* cells as an oral pesticide,
  - is substantially resistant to proteolysis by trypsin

and proteinase K, and

- e. has its pesticidal activity substantially destroyed by treatment with sodium dodecyl sulphate or acetone on heating to 80°C.

62. (New) A composition according to claim 59 which comprises a further pesticidal material not obtainable from *Xenorhabdus*.

63. (New) A composition according to claim 62 wherein the said further pesticidal material comprises a material obtainable from *B. thuringiensis*.

64. (New) A composition according to claim 63 which further comprises cells of *B. thuringiensis*.

65. (New) A composition according to claim 64 wherein the pesticidal material obtainable from *B. thuringiensis* comprises the delta endotoxin.

66. (New) A composition according to claim 65 which further comprises an agriculturally acceptable carrier.

67. (New) A composition according to claim 66, wherein the carrier comprises items of insect diet.

68. (New) A method for killing or controlling insect pests, which method comprises administering to a pest or the environment thereof a composition according to claim 59.

69. (New) A method according to claim 68, wherein the pests are insects from the order Lepidoptera or Diptera.

70. (New) A method for killing or controlling insect pests, which method comprises administering orally to the insect a composition according to claim 59.

Please cancel original claims 39 and 41.

A marked-up version of amended claims 37, 38, 40, 42, 46, 48 and 50 is attached.

#### REMARKS

At the outset, Examiner McGarry is thanked for the courtesy extended to applicants' representatives in granting a telephone interview on January 23, 2003. In this interview, Examiner McGarry indicated that he would be favorably disposed to claims drawn to a composition comprising a proteinaceous material or toxin encoded by SEQ ID NO:1. The Examiner indicated that the written description and enablement provided in the present specification appeared adequate to support such claims.